104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 104–396

UTAH PUBLIC LANDS MANAGEMENT ACT OF 1995

DECEMBER 11, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

together with

DISSENTNG VIEWS

[To accompany H.R. 1745]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1745) to designate certain public lands in the State of Utah as wilderness, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Public Lands Management Act of 1995".

SEC. 2. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Utah are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Desolation Canyon Wilderness Study Area comprised of approximately 254,478 acres, as generally depicted on a map entitled "Desolation Canyon Widerness—Proposed" and dated _____, and which shall be known as the Desolation Canyon Wilderness.

(2) Certain lands in the San Rafael Reef Wilderness Study Area comprised of approximately 47,786 acres, as generally depicted on a map entitled "San Rafael Reef Wilderness—Proposed" and dated _____, and which shall be known as the San Rafael Wilderness.

(3) Certain lands in the Horseshoe Canyon Wilderness Study Area (North) comprised of approximately 24,966 acres, as generally depicted on a map enti-

tled "Horseshoe/Labyrinth Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Horseshoe/Labyrinth Canyon Wilderness.

(4) Certain lands in the Crack Canyon Wilderness Study Area comprised of approximately 20,322 acres, as generally depicted on a map entitled "Crack Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Crack Canyon Wilderness.

(5) Certain lands in the Muddy Creek Wilderness Study Area comprised of approximately 37,244 acres, as generally depicted on a map entitled "Muddy Creek Wilderness—Proposed" and dated _____, and which shall be known as the Muddy Creek Wilderness.

(6) Certain lands in the Sids Mountain Wilderness Study Area comprised of approximately 41,154 acres, as generally depicted on a map entitled "Sids Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Sids Mountain Wilderness.

(7) Certain lands in the Mexican Mountain Wilderness Study Area comprised of approximately 34,107 acres, as generally depicted on a map entitled "Mexican Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Mexican Mountain Wilderness.

(8) Certain lands in the Phipps-Death Hollow Wilderness Study Area comprised of approximately 42,437 acres, as generally depicted on a map entitled "Phipps-Death Hollow Wilderness—Proposed" and dated _____, and which shall be known as the Phipps-Death Hollow Wilderness.

(9) Certain lands in the Steep Creek Wilderness Study Area comprised of approximately 21,277 acres, as generally depicted on a map entitled "Steep Creek Wilderness—Proposed" and dated _____, and which shall be known as the Steep Creek Wilderness.

(10) Certain lands in the North Escalante Canyons/The Gulch Wilderness Study Area comprised of approximately 103,324 acres, as generally depicted on a map entitled "North Escalante Canyons/The Gulch Wilderness—Proposed" and dated _____, and which shall be known as the North Escalante Canyons/The Gulch Wilderness.

(11) Certain lands in the Scorpion Wilderness Study Area comprised of approximately 16,692 acres, as generally depicted on a map entitled "Scorpion Wilderness—Proposed" and dated _____, and which shall be known as the Scorpion Wilderness.

(12) Certain lands in the Mt. Ellen-Blue Hills Wilderness Study Area comprised of approximately 62,663 acres, as generally depicted on a map entitled "Mt. Ellen-Blue Hills Wilderness—Proposed" and dated _____, and which shall be known as the Mt. Ellen-Blue Hills Wilderness.

(13) Certain lands in the Bull Mountain Wilderness Study Area comprised of approximately 11,424 acres, as generally depicted on a map entitled "Bull Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Bull Mountain Wilderness.

(14) Certain lands in the Fiddler Butte Wilderness Study Area comprised of approximately 22,180 acres, as generally depicted on a map entitled "Fiddler Butte Wilderness—Proposed" and dated _____, and which shall be known as the Fiddler Butte Mountain Wilderness.

(15) Certain lands in the Mt. Pennell Wilderness Study Area comprised of approximately 18,620 acres, as generally depicted on a map entitled "Mt. Pennell Wilderness—Proposed" and dated _____, and which shall be known as the Mt. Pennell Wilderness.

(16) Certain lands in the Mt. Hillers Wilderness Study Area comprised of approximately 14,746 acres, as generally depicted on a map entitled "Mt. Hillers Wilderness—Proposed" and dated _____, and which shall be known as the Mt. Hillers Wilderness.

(17) Certain lands in the Little Rockies Wilderness Study Area comprised of approximately 48,928 acres, as generally depicted on a map entitled "Little Rockies Wilderness—Proposed" and dated _____, and which shall be known as the Little Rockies Wilderness.

(18) Certain lands in the Mill Creek Canyon Wilderness Study Area comprised of approximately 7,838 acres, as generally depicted on a map entitled "Mill Creek Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Mill Creek Canyon Wilderness.

(19) Certain lands in the Negro Bill Canyon Wilderness Study Area comprised of approximately 7,432 acres, as generally depicted on a map entitled "Negro Bill Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Negro Bill Canyon Wilderness.

(20) Certain lands in the Floy Canyon Wilderness Study Area comprised of approximately 28,290 acres, as generally depicted on a map entitled "Floy Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Floy Canyon Wilderness.

(21) Certain lands in the Coal Canyon Wilderness Study Area and the Spruce Canyon Wilderness Study Area comprised of approximately 56,760 acres, as generally depicted on a map entitled "Coal/Spruce Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Coal/Spruce Canyon Wilderness.

(22) Certain lands in the Flume Canyon Wilderness Study Area comprised of approximately 37,506 acres, as generally depicted on a map entitled "Flume Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Flume Canyon Wilderness.

(23) Certain lands in the Westwater Canyon Wilderness Study Area comprised of approximately 25,383 acres, as generally depicted on a map entitled "Westwater Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Westwater Canyon Wilderness.

(24) Certain lands in the Beaver Creek Wilderness Study Area comprised of approximately 24,531 acres, as generally depicted on a map entitled "Beaver Creek Wilderness—Proposed" and dated _____, and which shall be known as the Beaver Creek Wilderness.

(25) Certain lands in the Fish Springs Wilderness Study Area comprised of approximately 36,142 acres, as generally depicted on a map entitled "Fish Springs Wilderness—Proposed" and dated _____, and which shall be known as the Fish Springs Wilderness.

(26) Certain lands in the Swasey Mountain Wilderness Study Area comprised of approximately 34,803 acres, as generally depicted on a map entitled "Swasey Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Swasey Mountain Wilderness.

(27) Certain lands in the Parunuweap Canyon Wilderness Study Area comprised of approximately 19,122 acres, as generally depicted on a map entitled "Parunuweap Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Parunuweap Wilderness.

(28) Certain lands in the Canaan Mountain Wilderness Study Area comprised of approximately 32,297 acres, as generally depicted on a map entitled "Canaan Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Canaan Mountain Wilderness.

(29) Certain lands in the Paria-Hackberry Wilderness Study Area comprised of approximately 57,641 acres, as generally depicted on a map entitled "Paria-Hackberry Wilderness—Proposed" and dated _____, and which shall be known as the Paria-Hackberry Wilderness.

(30) Certain lands in the Escalante Canyon Tract 5 Wilderness Study Area comprised of approximately 756 acres, as generally depicted on a map entitled "Escalante Canyon Tract 5 Wilderness—Proposed" and dated _____, and which shall be known as the Escalante Canyon Tract 5 Wilderness.

(31) Certain lands in the Fifty Mile Mountain Wilderness Study Area comprised of approximately 121,434 acres, as generally depicted on a map entitled "Fifty Mile Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Fifty Mile Mountain Wilderness.

(32) Certain lands in the Howell Peak Wilderness comprised of approximately 14,518 acres, as generally depicted on a map entitled "Howell Peak Wilderness—Proposed" and dated _____, and which shall be known as the Howell Peak Wilderness.

(33) Certain lands in the Notch Peak Wilderness Study Area comprised of approximately 17,678 acres, as generally depicted on a map entitled "Notch Peak Wilderness—Proposed" and dated _____, and which shall be known as the Notch Peak Wilderness.

(34) Certain lands in the Wah Wah Mountains Wilderness Study Area comprised of approximately 41,311 acres, as generally depicted on a map entitled "Wah Wah Mountains Wilderness—Proposed" and dated _____, and which shall be known as the Wah Wah Wilderness.

(35) Certain lands in the Mancos Mesa Wilderness Study Area comprised of approximately 48,269 acres, as generally depicted on a map entitled "Mancos Mesa Wilderness—Proposed" and dated _____, and which shall be known as the Mancos Mesa Wilderness.

(36) Certain lands in the Grand Gulch Wilderness Study Area comprised of approximately 51,110 acres, as generally depicted on a map entitled "Grand

Gulch Wilderness—Proposed" and dated _____, and which shall be known as the Grand Gulch Wilderness.

(37) Certain lands in the Dark Canyon Wilderness Study Area comprised of approximately 67,099 acres, as generally depicted on a map entitled "Dark Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Dark Canyon Wilderness.

(38) Certain lands in the Butler Wash Wilderness Study Area comprised of approximately 24,888 acres, as generally depicted on a map entitled "Butler Wash Wilderness—Proposed" and dated _____, and which shall be known as the Butler Wash Wilderness.

(39) Certain lands in the Indian Creek Wilderness Study Area comprised of approximately 6,769 acres, as generally depicted on a map entitled "Indian Creek Wilderness—Proposed" and dated _____, and which shall be known as the Indian Creek Wilderness.

(40) Certain lands in the Behind the Rocks Wilderness Study Area comprised of approximately 13,728 acres, as generally depicted on a map entitled "Behind the Rocks Wilderness—Proposed" and dated _____, and which shall be known as the Behind the Rocks Wilderness.

(41) Certain lands in the Cedar Mountains Wilderness Study Area comprised of approximately 25,645 acres, as generally depicted on a map entitled "Cedar Mountains Wilderness—Proposed" and dated _____, and which shall be known as the Cedar Mountains Wilderness.

(42) Certain lands in the Deep Creek Mountains Wilderness Study Area comprised of approximately 71,024 acres, as generally depicted on a map entitled "Deep Creek Mountains Wilderness—Proposed" and dated _____, and which shall be known as the Deep Creek Mountains Wilderness.

(43) Certain lands in the Nutters Hole Wilderness Study Area comprised of approximately 3,647 acres, as generally depicted on a map entitled "Nutters Hole Wilderness—Proposed" and dated _____, and which shall be known as the Nutters Hole Wilderness.

(44) Certain lands in the Cougar Canyon Wilderness Study Area comprised of approximately 4,370 acres, including those lands located in the State of Nevada, as generally depicted on a map entitled "Cougar Canyon Wilderness—Proposed" and dated _____, and which shall be known as the Cougar Canyon Wilderness.

(45) Certain lands in the Red Mountain Wilderness Study Area comprised of approximately 9,216 acres, as generally depicted on a map entitled "Red Mountain Wilderness—Proposed" and dated _____, and which shall be known as the Red Mountain Wilderness.

(46) Certain lands in the Deep Creek Wilderness Study Area comprised of approximately 3,063 acres, as generally depicted on a map entitled "Deep Creek Wilderness—Proposed" and dated _____, and which shall be known as the Deep Creek Wilderness.

(47) Certain lands within the Dirty Devil Wilderness Study Area comprised of approximately 75,854 acres, as generally depicted on a map entitled "Dirty Devil Wilderness—Proposed" and dated _____, and which shall be known as the Dirty Devil Wilderness.

(48) Certain lands in the Horseshoe Canyon South Wilderness Study Area comprised of approximately 11,392 acres, as generally depicted on a map entitled "Horseshoe Canyon South Wilderness—Proposed" and dated _____, and which shall be known as the Horseshoe Canyon South Wilderness.

(49) Certain lands in the French Spring-Happy Canyon Wilderness Study Area comprised of approximately 12,343 acres, as generally depicted on a map entitled "French Spring-Happy Canyon Wilderness—Proposed" and dated _____, and which shall be known as the French Spring-Happy Canyon Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall file a map and legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that corrections of clerical and typographical errors in each such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SEC. 3. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each area designated by this Act as wilderness shall be administered by the Secrtary in according with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and section 603 of the Federal Land Policy and Management Act of 1976. Any valid existing rights recognized by this Act shall be determined under applicable laws, including the land use planning process under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Any lands or interest in lands within the boundaries of an area designated as wilderness by this Act that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which such lands or interests in lands are located.

(b) MANAGEMENT PLANS.—The Secretary shall, within five years after the date of the enactment of this Act, prepare plans to manage the areas designated by this Act as wilderness.

(c) LIVESTOCK.—(1) Grazing of livestock in areas designated as wilderness by this Act, where established prior to the date of the enactment of this Act, shall—

(A) continue and not be curtailed, phased out or rendered economically infeasible due to wilderness designation or management; and

(B) be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 96–1126.

(2) Wilderness shall not be used as a suitability criteria for managing any grazing allotment that is subject to paragraph (1).

(d) STATE FISH AND WILDLIFE.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development, predator control, transplanting animals, stocking fish, hunting, fishing and trapping.

(e) PROHIBITION OF BUFFER ZONES.—The Congress does not intend that designation of an area as wilderness by this Act lead to the creation of protective perimeters or buffer zones around the area. The fact that nonwilderness activities or uses can be seen, heard, or smelled from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

(f) OIL SHALE RESERVE NUMBER TWO.—The area known as "Oil Shale Reserve Number Two within Desolation Canyon Wilderness (as designated by section 2(a)(1)), located in Carbon County and Uintah County, Utah, shall not be reserved for oil shale purposes after the date of the enactment of this Act and shall be under the sole jurisdiction of and managed by the Bureau of Land Management.

(g) ROADS AND RIGHTS-OF-WAY AS BOUNDARIES.—Unless depicted otherwise on a map referred to by this Act, where roads form the boundaries of the areas designated as wilderness by this Act, the wilderness boundary shall be set back from the center line of the road as follows:

(1) 300 feet for high standard roads such as paved highways.

(2) 100 feet for roads equivalent to high standard logging roads.

(3) 30 feet for all unimproved roads not referred to in paragraphs (1) or (2).

(h) CHERRY-STEMMED ROADS.—(1) The Secretary may not close or limit access to any road that is bounded on one or both sides by an area designated as wilderness by this Act, as generally depicted on a map referred to by this Act, without first obtaining written consent from the State of Utah or the political subdivision thereof with general jurisdiction over roads in the area.

(2) Any road described in paragraph (1) that is maintained by an entity other than the United States may continue to be maintained and repaired by any such entity.

(i) ACCESS.—(1) Reasonable access shall be allowed to water diversion, carriage, storage and ancillary facilities in existence as of the date of enactment of this Act which are within areas designated as wilderness by this Act, including motorized access where necessary or customarily or historically employed on existing routes. The diversion, carriage and storage capacity as of such date of such existing water facilities, and the condition of existing access routes as of such date, may be operated, maintained, repaired, modified, and replaced as necessary to maintain serviceable conditions.

(2) Reasonable access shall be allowed to any non-Federal lands that may remain within the areas designated as wilderness by this Act and to valid existing rights on Federal lands, including (but not limited to) existing water diversion, carriage, storage and ancillary facilities and livestock grazing improvements and structures.

(3) Facilities, structures and related access routes existing as of the date of enactment of this Act in areas designated as wilderness by this Act may be operated, maintained, repaired and replaced as necessary to maintain serviceable conditions.

(4) For the purposes of this subsection, reasonable access includes motorized access where necessary and customarily or historically employed on routes in existence as of the date of enactment of this Act and where necessary to meet the reasonable purposes for development and use of in-held lands or valid existing rights.

(j) LAND ACQUISITION BY EXCHANGE OR PURCHASE.—The Secretary may offer to acquire from non-governmental entities lands and interests in lands located within or adjacent to areas designated as wilderness by this Act. Lands may be acquired under this subsection only by exchange, donation, or purchase from willing sellers.

SEC. 4. WATER RIGHTS.

(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this Act.

(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness by this Act pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as wilderness by this Act, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER UTAH LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Utah State laws.

(d) CERTAIN FACILITIES NOT AFFECTED.—Nothing in this Act shall affect irrigation, pumping and transmission facilities and municipal, agricultural, livestock, or wildlife water facilities in existence within the boundaries of areas designated as wilderness by this Act, nor shall anything in this Act be construed to limit operation, maintenance, repair, modification, or replacement of such existing facilities, as provided in section 3(i).

(e) WATER RESOURCE PROJECTS.—Nothing in this Act shall be construed to limit or to be a consideration in Federal approvals or denials for access to or use of the Federal lands for development and operation of water resource projects, including (but not limited to) reservoir projects, which are located outside and upstream of areas designated as wilderness by this Act.

SEC. 5. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary is responsible for the protection (including through the use of mechanical means) and interpretation (including through the use of permanent improvements) of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this Act.

SEC. 6. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this Act by Native Americans for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access from time to time to those sites by Native Americans for such purposes, including (but not limited to) wood gathering for personal use or collecting plants or herbs for religious or medicinal purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1996; commonly referred to as the "American Indian Religious Freedom Act").

SEC. 7. MILITARY OVERFLIGHTS.

(a) LOW-LEVEL OVERFLIGHTS NOT PRECLUDED.—Nothing in this Act shall be construed to restrict or preclude low-level overflights over the areas designated as wilderness by this Act, including military overflights that can be seen or heard within such areas. Nothing in this Act shall be construed to restrict or preclude the designation of new units of special airspace or the establishment of military flight training routes over such areas, except that any such new unit of special airspace or military flight training route may be designated only after an opportunity for local public review and comment and after consultation with affected county commissioners.

(b) COMMUNICATIONS OR TRACKING SYSTEMS.—Nothing in this Act shall be construed to require the removal of existing communication or electronic tracking systems from areas designated as wilderness by this Act or to prevent the installation of portable electronic communication or tracking systems in support of military

flights so long as installation, maintenance, and removal of such systems does not require construction of temporary or permanent roads.

SEC. 8. AIR QUALITY.

(a) IN GENERAL.—The Congress does not intend that designation of wilderness areas in the State of Utah by this Act lead to reclassification of any airshed to a more stringent Prevention of Significant Deterioration (PSD) classification.

(b) ROLE OF STATE.—Air quality reclassification for the wilderness areas established by this Act shall be the prerogative of the State of Utah. All areas designated as wilderness by this Act are and shall continue to be managed as PSD Class II under the Clean Air Act unless they are reclassified by the State of Utah in accordance with the Clean Air Act.

(c) INDUSTRIAL FACILITIES.—Nothing in this Act shall be construed to restrict or preclude construction, operation, or expansion of industrial facilities outside of the areas designated as wilderness by this Act, including (but not limited to) the Hunter Power Facilities, the Huntington Power Facilities, the Intermountain Power Facilities, the Bonanza Power Facilities, the Continental Lime Facilities, and the Brush Wellman Facilities. Such projects and facilities shall be permitted according to appropriate laws and regulations including (but not limited to) the Clean Air Act.

SEC. 9. DISCLAIMERS.

Nothing in this Act shall be construed—

(1) to prohibit the establishment and maintenance of reservoirs, water-conservation works, transmission lines, pipelines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof in—

(A) Cougar Canyon Wilderness designated by section 2(a)(44);
(B) Red Mountain Wilderness designated by section 2(a)(45);
(C) Parunuweap Canyon Wilderness designated by section 2(a)(27);
(D) Canaan Mountain Wilderness designated by section 2(a)(28);
(E) Coal/Spruce Canyon Wilderness designated by section 2(a)(21); and
(F) Flume Canyon Wilderness designated by section 2(a)(22);

(2) to prevent the maintenance, repair, or expansion of communication sites and facilities needed in the public interest or to require removal of existing communications sites and facilities needed in the public interest in—

(A) Swasey Mountain Wilderness designated by section 2(a)(26);
(B) Fifty Mile Mountain Wilderness designated by section 2(a)(31);
(C) Mt. Ellen Wilderness designated by section 2(a)(12); and
(D) Deep Creek Mountains Wilderness designated by section 2(a)(42);

(3) as establishing a precedent with regard to any future wilderness designation, nor shall it constitute an interpretation of any other Act or any wilderness designation made pursuant thereto; and

(4) to prevent the use of any mechanically propelled water craft on waters that lie within or adjacent to an area designated as wilderness by this Act where such use was established before the date of the enactment of this Act.

SEC. 10. WILDERNESS RELEASE.

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public lands administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)) but shall be managed for the full range of nonwilderness multiple uses in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712). Such lands shall not be managed for the purpose of protecting suitability for wilderness designation or their wilderness character and shall remain available for nonwilderness multiple uses, subject to the requirements of other federal laws.

(c) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon; UT–080–419/CO–010–001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT–060–116/117/CO–070–113A.

(3) Squaw/Papoose Canyon; UT–060–227/CO–030–265A.

(4) Cross Canyon; UT–060–229/CO–030–265.

SEC. 11. EXCHANGE RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) FINDINGS.—The Congress finds that—

(1) approximately 209,000 acres of school and institutional trust lands are located within or adjacent to areas designated as wilderness by this Act, including 15,000 acres of mineral estate;

(2) such lands were originally granted to the State of Utah for the purpose of generating support for the public schools through the development of natural resources and other methods;

(3) it is in the interest of the State of Utah and the United States for such lands to be exchanged for interests in Federal lands located outside of wilderness areas to accomplish this purpose; and

(4) the value of the Federal lands described in subsection (c)(2), adjusted to reflect the right of the State of Utah to share in revenue from such lands, are of approximate equivalent value to such school and institutional trust lands.

(b) EXCHANGE.—If, not later than two years after the date of the enactment of this Act and in accordance with this section, the State of Utah offers to transfer all its right, title, and interest in and to the school and institutional trust lands described in subsection (c)(1) to the United States, the Secretary shall accept the offer and, within 180 days after the date of such acceptance, in exchange for such lands initiate transfer to the State of Utah of all right, title, and interest of the United States in and to the Federal lands described in subsection (c)(2) and, if necessary, lands identified pursuant to subsection (d). The exchange of lands under this section shall be subject to valid existing rights, including (but not limited to) the right of the State of Utah to receive revenue from the production of minerals pursuant to the Mineral Leasing Act (30 U.S.C. 191 et seq.). All transfers of lands under this section shall be completed within two years after the date of such acceptance, but within such two-year period, transfers of portions of such lands may be made.

(c) STATE AND FEDERAL EXCHANGE LANDS DESCRIBED.—

(1) SCHOOL AND INSTITUTIONAL TRUST LANDS.—The school and institutional trust lands referred to in this section are those lands generally depicted as "Utah School Lands" on the map entitled "In-Held School Trust Land Exchange—Proposed" and dated ————————which—

(A) are located within or adjacent to areas designated by this Act as wilderness; and

(B) were granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(2) FEDERAL LANDS.—The Federal lands referred to in this section are the lands located in the State of Utah which are generally depicted as "Federal Exchange Lands" on the map referred to in paragraph (1).

(d) ADDITIONAL AVAILABLE FEDERAL LANDS TO REMEDY IMBALANCES DUE TO ENCUMBRANCES.—

(1) LIST OF ENCUMBRANCES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare a list of all encumbrances of record (in the records of the Bureau of Land Management or otherwise known to the Bureau of Land Management) of the Federal land described in subsection (c)(2) and transmit the list to the State of Utah. Likewise, the State shall prepare a list of all encumbrances of record or otherwise known to the State to the State lands described in subsection (c)(1) and transmit the list to the Secretary.

(2) REMEDY.—In the event that the encumbrances identified pursuant to paragraph (1) result in an imbalance in the exchange under this section such that the value of the lands transferred by the State is greater than the value of the Federal lands received, the Secretary shall transfer to the State such additional Federal lands as may be necessary to remedy the imbalance.

(e) DUTIES OF THE PARTIES AND OTHER PROVISIONS RELATING TO THE EXCHANGE.—

(1) MAP AND LEGAL DESCRIPTION.—The State of Utah and the Secretary shall each provide to the other legal description of the lands under their respective jurisdictions which are to be exchanged under this section. The map referred to in subsection (c)(1) and the legal description provided under this subsection shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

(2) HAZARDOUS MATERIALS.—The Secretary and the State of Utah shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous mate-

rials as presently defined by applicable law. The results of those inspections shall be made available to the parties. The responsibility for costs of remedial action related to such materials shall be borne by those entities responsible under existing law.

(3) PROVISIONS RELATED TO FEDERAL LANDS.—(A) The enactment of this section Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) The transfer of lands and related activities required of the Secretary under this section shall not be subject to National Environmental Policy Act of 1969.

(C) The value of Federal lands transferred to the State under this section shall be adjusted to reflect the right of the State of Utah under Federal law to share the revenues from such Federal lands, and the conveyances under this section to the State of Utah shall be subject to such revenue sharing obligations as a valid existing right.

(D) Subject to valid existing rights, the Federal lands described in subsection (c)(2) are hereby withdrawn from disposition under the public lands laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States from operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

(f) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands and interests in lands acquired by the United States under this section shall be added to and administered as part of areas of the public lands, as indicated on the maps referred to in this section or in section 2, as applicable.

SEC. 12. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this Act shall be appraised without regard to the presence of species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

PURPOSE OF THE BILL

The purposes of H.R. 1745 are to designate certain public lands in the State of Utah as wilderness, and to release undesignated lands for multiple use purposes.

BACKGROUND AND NEED FOR LEGISLATION

History of Utah BLM wilderness

In 1978, the Utah State Office of the Bureau of Land Management (BLM) began an exhaustive process to develop a Utah BLM wilderness proposal under the Wilderness Act of 1964 in compliance with section 603 of the Federal Land Policy and Management Act of 1976. The initial inventory for most BLM managed lands began in 1979, but accelerated inventories for some areas (such as the overthrust belt area and lands affected by the Intermountain Power Plant proposal) had began earlier. This was no small task, since more than 22 million acres of Utah land managed by BLM were available for the study.

BLM employees scrutinized over 40 percent of Utah's total land mass to assess each acre's eligibility for wilderness designation. It was determined that approximately 5.4 million acres might have wilderness character, and these areas were reviewed in greater depth in an intensive inventory.

By November 1980, BLM had identified approximately 2.6 million acres as having wilderness character and these acres were designated as wilderness study areas (WSAs). This acreage includes eight Instant Study Areas, which are areas previously classified as natural or primitive. In 1981, environmental groups appealed to

the Department of the Interior Board of Land Appeals (IBLA) the BLM's decision not to identify approximately 925,000 additional acres as WSAs. IBLA remanded approximately 700,000 acres back to BLM for reconsideration. BLM conducted additional field work on those areas and added about 525,000 acres to WSA status. Those acres appealed but not identified as WSAs were again appealed by the same environmental groups. As a result of this second appeal, an additional 77,000 acres were added to WSA status. A subsequent appeal was rejected by IBLA.

During the inventory, BLM considered 14 areas that did not meet the 5,000 acre size criterion, but were adjacent to National Park Service or National Forest-proposed wilderness areas. By decision of the Secretary of the Interior, ten of these areas were subsequently deleted from the study. In April 1985, the United States District Court for the Eastern District of California issued a decision (*Sierra Club* v. *Watt*, 608 F. Supp. 305 (E.D.Cal. 1985)) to return to wilderness study status those areas less than 5,000 acres that are contiguous to potential wilderness areas of other agencies. Ten areas in Utah, totaling about 18,500 acres, were reinstated as WSAs. One of these WSAs (Big Hollow) subsequently failed to qualify when it was no longer contiguous to the boundary of the designated National Forest Deseret Peak Wilderness, and it was formally dropped as a WSA as indicated in a Federal Register notice of December 18, 1987. Approximately 8,000 acres of split estate (Federal subsurface and State surface) in four WSAs were also reinstated as a result of the decision.

The resolution of challenges and appeals was part of the process that resulted in the boundaries and acreage of the WSAs. Ninety-five WSAs were identified which included approximately 3.2 million acres. In 1993, Scott's Basin WSA, involving about 6,900 acres in the Deep Creek Mountains, became the 96th WSA.

Eighty-three of the study areas (including 5,400 acres in Nevada) were analyzed in the Utah BLM Statewide Wilderness Environmental Impact Statement (EIS). In addition, approximately 24,000 acres in seven WSAs in Utah were studied by the BLM in Nevada and Colorado in a total of four additional EISs. Five of the Instant Study Areas (about 3,000 acres) were independently studied in 1980 and 1981. The Utah Statewide Draft EIS was made available for public review and comment in 1986. Seventeen public hearings were held. The Draft EIS generated about 4,500 responses with over 6,000 signatures. The study involved all resource values within the WSAs, not just wilderness values. Considerations included present and projected future uses of the areas, the manageability of the areas as wilderness, mineral surveys prepared by the U.S. Geological Survey and Bureau of Mines, and public input.

In October 1991, then Secretary of the Interior Manuel Lujan, Jr. reported the results of BLM's wilderness review. The Department of the Interior's 1991 recommendation was that approximately 1.9 million acres within 69 WSAs be designated as part of the National Wilderness Preservation System and that approximately 1.3 million acres within 63 WSAs be released from wilderness study. In this recommendation, Secretary Lujan changed BLM's original recommendation for Turtle Canyon from suitable to non-suitable. A subsequent lawsuit (*Colorado Environmental Coalition, et al.* v.

Babbitt, Civil No. 91–S–1815 (D. Colorado)) was filed, resulting in Department of the Interior taking a new look at Turtle Canyon (as well as other areas named in the lawsuit) plus evaluating all BLM candidate wilderness areas at the time that designation bills are taken up by Congress.

A total of $10,052,733 has been directly expended on the Wilderness Program in Utah between 1978 and 1992, and approximately 2,777 work months have been officially charged to the Wilderness Program during the same period.

Utah BLM wilderness legislative history

The first Utah BLM wilderness bills were introduced in the 101st Congress. In 1989, Congressman Jim Hansen (R–UT) introduced H.R. 1501, which designated 1.4 million acres of Utah BLM land as wilderness. H.R. 1501 represented the "Paramount Plan" which was the portion of the 1.9 million acres recommended by BLM for wilderness designation that had the most significant wilderness values. Also in the 101st Congress, Congressman Wayne Owens (D–UT) introduced H.R. 1500, which contained approximately 5.4 million acres of wilderness.

In the 102nd Congress Congressman Hansen reintroduced his bill as H.R. 1508 and Congressman Owens again introduced H.R. 1500.

The only Utah wilderness bill introduced during the 103rd Congress was H.R. 1500 by Congressman Maurice Hinchey (D–NY). This bill designated all the acreage in Congress Owens wilderness bill plus an additional 300,000 acres, for a total of 5.7 million acres.

Development of H.R. 1745 in the 104th Congress

H.R. 1745 is the result of a process set up by the Utah Congressional delegation and the Governor of Utah to obtain as much local level input as possible on the BLM wilderness issue. In January of 1995, the Utah delegation requested the affected County Commissioners to study the proposed wilderness areas within their counties and make recommendations to the delegation and the Governor.

The Counties spent thousands of hours studying their jurisdictions, where over 45 public meetings were held throughout the State of Utah. The Counties then reported their findings in five regional meetings to the delegation and the Governor. The Counties recommended 1.0 million acres and strong language protecting a variety of existing uses and water rights. After all was done, testimony from over 600 individuals was heard by the Utah delegation and Governor, the delegation received petitions signed by over 16,700 people, and letters from over 2,300 people were considered. The delegation and the Governor then began a six-week process where the information received was analyzed, ground checked, and formulated into what is now H.R. 1745.

H.R. 1745 would designate 1.8 million acres of wilderness. This proposal takes into consideration the County recommendations, the BLM recommendation of 1.9 million acres and some of the environmental community's recommendations.

COMMITTEE ACTION

H.R. 1745 was introduced on June 6, 1995, by Congressman James V. Hansen. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Forests and Lands. On the following dates, the Subcommittee on National Parks, Forests and Lands. On the following dates, the Subcommittee held hearings on H.R. 1745: June 23, 1995, in Cedar City, Utah; June 24, 1995, in Salt Lake City, Utah; and June 29, 1995, in Washington, D.C., where the Subcommittee received testimony from numerous interests. The Administration declined to testify at the field hearings in Utah but did testify in opposition to H.R. 1745 in Washington.

On July 18, 1995, the Subcommittee met to mark up H.R. 1745. An amendment in the nature of a substitute was offered by Mr. Hansen. The amendment made several changes throughout H.R. 1745. In section 2, the amendment made acreage changes in paragraphs 3, 21, 22, 28, 33, 38, and 44. These are relatively small adjustments that reflect actual changes made on the relevant maps or are calculation corrections. In section 3, the amendment inserted language that requires that all valid existing rights recognized by the bill are determined under section 202 of the Federal Land Policy Management Act or the resource management plan process; required the Secretary of the Interior to prepare management plans within five years; added that wilderness shall not be used as a suitability criteria for managing any grazing allotments; added a 30 foot set-off for all other unimproved roads as taken from the BLM management handbook; clarified the definition of a cherry-stemmed road and requires written permission from the State or local government before a road could be closed; and deleted paragraph h(2). In section 5, the amendment added protection of ''archaeological'' resources and clarified that only the Secretary of the Interior is responsible for the protection and interpretation of these resources and that the Secretary may use mechanical means or permanent structures to accomplish those mandates. In section 8, the amendment made technical changes referencing ''facilities'' rather than ''plant''. In section 9, the amendment added ''pipelines'' to list of activities not affected by H.R. 1745; added new subparagraphs (E) and (F); deleted paragraph (3); and amended paragraph (5) to only include motorized water craft where previously established. In section 11, the amendment adjusted acreage to accurate amounts and changed hazardous materials language to require a physical inspection. Finally, the amendment added a new section 12 that prohibits an appraisal from considering the presence of a threatened or endangered species.

Mr. Hinchey offered a substitute amendment that would have struck the Hansen amendment and inserted the text of H.R. 1500; the amendment failed on voice vote. Mr. Hinchey then offered an amendment which would have added 363,373 acres to the wilderness designation in H.R. 1745. The amendment failed on a rollcall vote of 6–11, as follows:

Recorded votes

Date: July 17, 1995.

Bill Number(s): H.R. 1745.
Amendment Number: No. 17.
Offered by: Mr. Hinchey of New York.

Members	Yea	Nay	Present	Members	Yea	Nay	Present
Mr. Hansen, Chairman		X		Mr. Richardson			
Mr. Duncan		X		Mr. Rahall			
Mr. Hefley		X		Mr. Vento	X		
Mr. Doolittle		X		Mr. Kildee	X		
Mr. Allard		X		Mr. Williams	X		
Mr. Pombo				Mr. Faleomavaega			
Mr. Torkildsen				Mr. Studds			
Mr. Hayworth		X		Mr. Pallone	X		
Mrs. Cubin		X		Mr. Romero-Barcelo	X		
Mr. Cooley		X		Mr. Hinchey	X		
Mrs. Chenoweth		X		Mr. Underwood			
Mrs. Smith							
Mr. Radanovich		X					
Mr. Shadegg							
Mr. Ensign		X					

Mr. Hinchey offered an amendment to make discretionary the authority of the Secretary of the Interior to offer to acquire lands adjacent to or in wilderness areas from nongovernmental entities. The amendment was adopted by voice vote. Mr. Hinchey next offered an amendment to section 11 which would have required detailed appraisals of those lands involved in the school trust land exchange; the amendment failed on a rollcall vote of 5–12, as follows:

Recorded Votes

Date: July 17, 1995.
Bill Number(s): H.R. 1745.
Amendment Number: No. 19.
Offered by: Mr. Hinchey of New York.

Members	Yea	Nay	Present	Members	Yea	Nay	Present
Mr. Hansen, Chairman		X		Mr. Richardson			
Mr. Duncan		X		Mr. Rahall			
Mr. Hefley		X		Mr. Vento	X		
Mr. Doolittle		X		Mr. Kildee	X		
Mr. Allard		X		Mr. Williams	X		
Mr. Pombo				Mr. Faleomavaega			
Mr. Torkildsen		X		Mr. Studds			
Mr. Hayworth		X		Mr. Pallone			
Mrs. Cubin		X		Mr. Romero-Barcelo	X		
Mr. Cooley		X		Mr. Hinchey	X		
Mrs. Chenoweth		X		Mr. Underwood			
Mrs. Smith							
Mr. Radanovich		X					
Mr. Shadegg							
Mr. Ensign		X					

Mr. Hinchey next offered an amendment to strike section 9 of the Hansen amendment dealing with valid existing rights; the amendment failed by voice vote. Mr. Hinchey then offered an amendment to change the name of the bill; the amendment failed on a voice vote. Mr. Hinchey next offered an amendment to create a Federal reserved water right for wilderness areas. This amendment failed by voice vote. Lastly, Mr. Hinchey offered an amendment to strike

the existing language on grazing and to insert new language. This amendment also failed by voice vote.

The Hansen amendment in the nature of a substitute, as amended, was adopted by voice vote. The bill was then ordered favorably reported by voice vote to the Full Committee in the presence of a quorum.

On August 2, 1995, the Full Resources Committee met to consider H.R. 1745 as reported by the Subcommittee. Mr. Hinchey offered an amendment to clarify road setbacks. The amendment was adopted by voice vote. Mr. Hinchey offered an amendment amending section 9 of the bill regarding motorboat use in wilderness areas. This amendment failed on a voice vote. Mr. Miller of California offered an amendment requiring the school trust land exchange to be conducted under section 206 of FLPMA (this amendment was identical to that offered by Mr. Hinchey during the Subcommittee consideration of H.R. 1745); the amendment failed on a rollcall vote of 17–22, as follows:

Recorded votes

Date: August 2, 1995.
Roll No. 1.
Bill No.: H.R. 1745.
Short Title: Utah Public Lands Management Act.
Amendment or matter voted on: Miller No. 19.

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Young (Chairman)				Mr. Miller	X		
Mr. Hansen		X		Mr. Rahall	X		
Mr. Saxton		X		Mr. Vento			
Mr. Gallegly		X		Mr. Kildee	X		
Mr. Duncan		X		Mr. Williams	X		
Mr. Hefley		X		Mr. Gejdenson	X		
Mr. Doolittle		X		Mr. Richardson	X		
Mr. Allard		X		Mr. DeFazio	X		
Mr. Gilchrest		X		Mr. Faleomavaega			
Mr. Calvert		X		Mr. Johnson			
Mr. Pombo		X		Mr. Abercrombie	X		
Mr. Torkildsen				Mr. Studds	X		
Mr. Hayworth		X		Mr. Tauzin			
Mr. Cremeans		X		Mr. Ortiz	X		
Mrs. Cubin		X		Mr. Picket	X		
Mr. Cooley		X		Mr. Pallone	X		
Mrs. Chenoweth		X		Mr. Dooley	X		
Mrs. Smith		X		Mr. Romero-Barceló	X		
Mr. Radanovich		X		Mr. Hinchey	X		
Mr. Jones		X		Mr. Underwood	X		
Mr. Thornberry		X		Mr. Farr	X		
Mr. Hastings		X					
Mr. Metcaf							
Mr. Longley		X					
Mr. Shadegg							
Mr. Ensign		X					

Mr. Hansen then offered an amendment to section 9 regarding mechanically propelled water craft to reflect language in the Wilderness Act of 1964; the amendment was adopted by voice vote. Mr. Hansen then offered amendments en bloc to section 11 clarifying the right of the State of Utah to receive 50 percent of the

leased mineral revenues from Federal lands acquired by the Utah School Trust. It was adopted by voice vote.

Mr. Hinchey next offered an amendment to section 5 dealing with the protection of cultural, archaeological and paleontological resources. The amendment deleted provisions that would have directed the Secretary of the Interior to protect and interpret these resources through mechanical means and permanent improvements. ''Mechanical means'' is defined as fencing, rerouting of trails, policing or other activities necessary to protect these resources. ''Permanent improvements'' is defined as signing or labeling necessary to provide sufficient interpretation for the protection of these resources. Mr. Hinchey amended his amendment by unanimous consent to delete the phrase ''(including use of permanent improvements)''. The Hinchey amendment, as amended, failed on a rollcall vote of 8–28–1, as follows:

Recorded votes

Date: August 2, 1995
Roll No. 2.
Bill No.: H.R. 1745.
Short Title: Utah Public Lands Management Act.
Amendment or matter voted on: Hinchey No. 13 as amended.

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Young (Chairman)		X		Mr. Miller			
Mr. Hansen		X		Mr. Rahall	X		
Mr. Saxton		X		Mr. Vento			
Mr. Gallegly				Mr. Kildee		X	
Mr. Duncan				Mr. Williams		X	
Mr. Hefley		X		Mr. Gejdenson		X	
Mr. Doolittle		X		Mr. Richardson	X		
Mr. Allard		X		Mr. DeFazio	X		
Mr. Gilchrest		X		Mr. Faleomavaega			
Mr. Calvert		X		Mr. Johnson			
Mr. Pombo		X		Mr. Abercrombie		X	
Mr. Torkildsen		X		Mr. Studds	X		
Mr. Hayworth		X		Mr. Tauzin			
Mr. Cremeans		X		Mr. Ortiz		X	
Mrs. Cubin		X		Mr. Pickett		X	
Mr. Cooley		X		Mr. Pallone	X		
Mrs. Chenoweth		X		Mr. Dooley		X	
Mrs. Smith		X		Mr. Romero-Barceló			X
Mr. Radanovich		X		Mr. Hinchey	X		
Mr. Jones		X		Mr. Underwood	X		
Mr. Thornberry		X		Mr. Farr	X		
Mr. Hastings		X					
Mr. Metcalf							
Mr. Longley		X					
Mr. Shadegg							
Mr. Ensign		X					

Mr. Williams offered an amendment rewriting the wilderness release language in section 10 of the bill. The amendment was defeated on a rollcall vote of 7–21, as follows:

Recorded Votes

Date: August 2, 1995.
Roll No. 3.
Bill No.: H.R. 1745.

Short Title: Utah Public Lands Management Act.
Amendment or matter voted on: Williams No. 16.

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Young (Chairman)				Mr. Miller			
Mr. Hansen		X		Mr. Rahall			
Mr. Saxton		X		Mr. Vento			
Mr. Gallegly				Mr. Kildee	X		
Mr. Duncan				Mr. Williams	X		
Mr. Hefley				Mr. Gejdenson	X		
Mr. Doolittle		X		Mr. Richardson			
Mr. Allard		X		Mr. DeFazio	X		
Mr. Gilchrest				Mr. Faleomavaega			
Mr. Calvert		X		Mr. Johnson			
Mr. Pombo		X		Mr. Abercrombie			
Mr. Torkildsen				Mr. Studds	X		
Mr. Hayworth		X		Mr. Tauzin			
Mr. Cremeans		X		Mr. Ortiz			
Mrs. Cubin		X		Mr. Pickett		X	
Mr. Cooley		X		Mr. Pallone	X		
Mrs. Chenoweth		X		Mr. Dooley		X	
Mrs. Smith		X		Mr. Romero-Barceló			
Mr. Radanovich				Mr. Hinchey	X		
Mr. Jones		X		Mr. Underwood			
Mr. Thornberry		X		Mr. Farr			
Mr. Hastings		X					
Mr. Metcalf		X					
Mr. Longley		X					
Mr. Shadegg		X					
Mr. Ensign		X					

Mr. Hinchey then offered an amendment to section 7 to require that prior to the establishment of new special airspace or training routes, that there be an opportunity for local public review and comment and after consultation with the affected County Commissioners. The amendment passed by voice vote after clarification that the military already abided by this requirement as a matter of practice.

The final amendment offered by Mr. Hinchey was an amendment in the nature of a substitute comprised of the text of H.R. 1500. The amendment failed on a rollcall vote of 9–21, as follows:

Recorded votes

Date: August 2, 1995.
Roll No. 4.
Bill No.: H.R. 1745.
Short Title: Utah Public Lands Management Act.
Amendment or matter voted on: Hinchey No. 1.

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Young (Chairman)				Mr. Miller			
Mr. Hansen		X		Mr. Rahall			
Mr. Saxton		X		Mr. Vento			
Mr. Gallegly		X		Mr. Kildee	X		
Mr. Duncan				Mr. Williams	X		
Mr. Hefley				Mr. Gejdenson	X		
Mr. Doolittle		X		Mr. Richardson			
Mr. Allard		X		Mr. DeFazio	X		
Mr. Gilchrest				Mr. Faleomavaega			
Mr. Calvert		X		Mr. Johnson			
Mr. Pombo		X		Mr. Abercrombie	X		
Mr. Torkildsen				Mr. Studds	X		

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Hayworth		X		Mr. Tauzin			
Mr. Cremeans		X		Mr. Ortiz			
Mrs. Cubin		X		Mr. Pickett		X	
Mr. Cooley		X		Mr. Pallone	X		
Mrs. Chenoweth		X		Mr. Dooley		X	
Mrs. Smith		X		Mr. Romero-Barceló			
Mr. Radanovich				Mr. Hinchey	X		
Mr. Jones		X		Mr. Underwood	X		
Mr. Thornberry		X		Mr. Farr			
Mr. Hastings		X					
Mr. Metcalf							
Mr. Longley		X					
Mr. Shadegg		X					
Mr. Ensign		X					

H.R. 1745, as amended, was then ordered favorably reported to the House of Representatives, in the presence of a quorum, by a rollcall vote of 23–8, as follows:

Recorded votes

Date: August 2, 1995.
Roll No. 5.
Bill No.: H.R. 1745.
Amendment or matter voted on: Final Passage.

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Young (Chairman)				Mr. Miller			
Mr. Hansen	X			Mr. Rahall			
Mr. Saxton	X			Mr. Vento			
Mr. Gallegly	X			Mr. Kildee		X	
Mr. Duncan				Mr. Williams		X	
Mr. Hefley				Mr. Gejdenson		X	
Mr. Doolittle	X			Mr. Richardson			
Mr. Allard	X			Mr. DeFazio		X	
Mr. Gilchrest				Mr. Faleomavaega			
Mr. Calvert	X			Mr. Johnson			
Mr. Pombo	X			Mr. Abercrombie		X	
Mr. Torkildsen				Mr. Studds			
Mr. Hayworth	X			Mr. Tauzin			
Mr. Cremeans	X			Mr. Ortiz			
Mrs. Cubin	X			Mr. Pickett	X		
Mr. Cooley	X			Mr. Pallone		X	
Mrs. Chenoweth	X			Mr. Dooley	X		
Mrs. Smith	X			Mr. Romero-Barceló			
Mr. Radanovich				Mr. Hinchey		X	
Mr. Jones	X			Mr. Underwood	X		
Mr. Thornberry	X			Mr. Farr		X	
Mr. Hastings	X						
Mr. Metcalf	X						
Mr. Longley	X						
Mr. Shadegg	X						
Mr. Ensign	X						

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the "Utah Public Lands Management Act of 1995."

Section 2. Designation of wilderness

This section designates approximately 1.8 million acres of lands managed by BLM as wilderness under the 1964 Wilderness Act (16 U.S.C. 1131 et seq.) and are added to the National Wilderness Preservation System. Each wilderness area is listed individually with the corresponding acreage and reference to the official map. This acreage closely mirrors the recommendations made by BLM in the 1991 Final Environmental Impact Statement.

Section 3. Administration of wilderness areas

Subject to valid existing rights, the Secretary of the Interior is instructed to manage the designated lands pursuant to H.R. 1745, the Wilderness Act of 1964 and section 603 of the Federal Land Policy and Management Act (FLPMA) of 1976. Any valid existing rights recognized must be determined under section 202 of FLPMA and the regular land use planning process. The Secretary is instructed to prepare management plans within five years of enactment for the designated areas.

Under subsection (c), the grazing of livestock within wilderness areas is permitted where previously established and must be administered in accordance with section 4(d)(4) of the Wilderness Act and the guidelines set forth in House Report 96–1126 which accompanies the 1980 Idaho Wilderness Act. Moreover, livestock grazing may not be curtailed or phased out due to wilderness designation nor shall wilderness designation be used as a suitability criteria for managing grazing allotments.

In accordance with section 4(d)(7) of the Wilderness Act, nothing in H.R. 1745 is to affect the jurisdiction or responsibilities of the State of Utah in managing fish and wildlife resources including specified activities. The State of Utah has successfully reintroduced species such as big horn sheep in several of these areas and the Committee endorses these activities and intends that they continue.

Subsection (e) prohibits the creation of buffer zones around wilderness areas regardless of activities that can be seen, heard or smelled from within the wilderness area. The Committee intends that the boundaries depicted in the legislation are "bright line" boundaries and that administration of wilderness will not affect lands or activities outside the wilderness areas.

Subsection (f) withdraws a reservation on Oil Shale Reserve Number 2 and transfers jurisdiction back to BLM.

Unless otherwise depicted on the official maps referred to in the bill, the wilderness boundary shall be set back from roads as specified in this subsection (g).

Subsection (h) prohibits the Secretary of the Interior from closing a road or limiting access to any road that is bounded on one or both sides by wilderness unless the State of Utah or a political subdivision thereof gives consent. Roads maintained by an entity other than the United States may continue to be maintained by that entity. The Subcommittee heard testimony during hearings that numerous roads that were cherry-stemmed as part of Forest Service wilderness in Utah were simply closed through administrative actions without regard to the maps approved by Congress. The Committee fully intends that the roads that are excluded from wilder-

ness areas are kept open for public use and access unless consent for closure is given by the State or local government with general jurisdiction over the road.

Pursuant to section 4(d)(4) of the Wilderness Act, reasonable access shall be allowed to certain existing water facilities, including motorized access where historically employed. Non-Federal lands may be accessible that are contained within a wilderness area, and existing facilities and related access routes may be maintained and replaced as necessary. Reasonable access includes motorized access where necessary and historically employed.

Under subsection (j), the Secretary is authorized to acquire through purchase, exchange or donation any non-Federal lands within wilderness areas. Outside of the Utah State school trust lands identified in section 11 of the bill, the Committee is not aware of any other non-Federal lands within the designated wilderness areas.

Section 4. Water rights

Although testimony received by the Committee indicated that the majority of the waters contained in the wilderness areas is fully appropriated, there are several areas that contain water resources not yet developed. Given that water is such a valuable resource in these desert areas, the Committee fully intends that there will not be established a Federal reserve water right due to wilderness designation or wilderness protection.

Subsection (a) makes clear that nothing in H.R. 1745 shall constitute an express or implied Federal reservation of water or water rights due to wilderness designation.

Subsection (b) authorizes the United States to acquire and exercise water rights for wilderness management pursuant to Utah State law. Any such water rights acquired by the United States must be exercised in accordance with Utah State laws.

Subsection (c) clarifies that nothing in H.R. 1745 may limit the exercise of water rights under Utah State laws.

Subsection (d) clarifies that nothing in H.R. 1745 affects the existence, maintenance or replacement of cited water facilities.

Subsection (e) clarifies that H.R. 1745 shall not limit the Federal approval of water resource projects located outside and upstream of wilderness areas.

Section 5. Cultural, archaeological and paleontological resources

This section mandates that the Secretary protect these resources within designated wilderness areas. Due to the remoteness and number of these resources, the Committee intends that the Secretary exercise the discretion granted by this section to protect these resources through a variety of measures as necessary. The Committee intends that any signs erected by the Secretary under this authority be used for interpretative purposes only.

Section 6. Native American cultural and religious uses

Pursuant to the American Indian Religious Freedom Act, the Secretary shall assure nonexclusive access to designated wilderness areas for Native Americans for certain cultural uses.

Section 7. Military overflights

Nothing in H.R. 1745 shall restrict or preclude low-level overflights over designated wilderness areas. This section also preserves the ability to establish new airspace units for training and the existence and maintenance of communication and tracking systems that support military overflights.

Section 8. Air quality

This section simply reiterates the role of the State of Utah in determining airshed classifications under the Clean Air Act. Furthermore, subsection (c) protects the ability to operate and expand existing industrial facilities that are currently located near designated wilderness areas.

Section 9. Disclaimers

The Committee finds that there are numerous existing rights and activities that exist within or adjacent to designated wilderness areas. Due to a history of these rights being phased out or precluded over time in wilderness areas, the Committee intends that those rights or activities be continued if they were allowed prior to wilderness designation. Moreover, where public interest dictates, new uses may be established.

In conjunction with section 4(d)(4) of the Wilderness Act, this section allows for the establishment and maintenance of water facilities, transmission lines, pipelines, communication sites, and other facilities needed in the public interest. Paragraph (4) reaffirms section 4(d)(1) of the Wilderness Act in permitting the use of mechanically propelled water craft where such use was established prior to enactment of H.R. 1745.

Section 10. Wilderness release

This section would release all non-designated lands managed by BLM for non wilderness multiple uses in accordance with land management plans adopted pursuant to section 202 of FLPMA. Subsection (c) retains four areas as wilderness study areas under section 603(c) of FLPMA. The BLM in Utah has managed 5.7 million acres as de facto wilderness since 1992 even though the agency is only authorized to manage 3.2 million acres as wilderness study areas. Thus, the Committee intends that only the acreage designated by H.R. 1745 be managed as wilderness. This language does not prevent BLM from managing released lands under valid administrative designations; however, the Committee wishes to make it clear that only Congress may designate wilderness. Under the Committee's language, release lands may not be managed as wilderness but must be managed under a valid management plan which has been exposed to the public process as required in FLMPA and the National Environmental Policy Act.

Section 11. Exchange relating to school and institutional trust lands

Approximately 209,000 acres of school and institutional trust lands lie within or adjacent to areas designated as wilderness by H.R. 1745. These lands were originally granted to the State of Utah to generate income for the public schools. It is in the interest of the State of Utah and the United States to exchange these lands

out of the wilderness areas to accomplish the purposes of the school trust lands. The value of the Federal lands to be exchanged for the school trust lands are approximate equivalent value.

If the State of Utah offers to transfer all its right, title and interest to the school trust lands, the Secretary shall accept the offer and within 180 days initiate the exchange of the Federal lands identified. The exchange of lands is subject to valid existing rights and all exchanges must occur within two years.

Subsection (c) identifies the lands to be exchanged on official maps. The Committee considered a working map during consideration that will change due to new information regarding values of lands to maintain approximate equal values in the exchange. The resulting map affecting the Utah school trust land exchange is designated "In-Held School Trust Land Exchange—Proposed."

Under subsection (d), not later than 180 days after enactment, the Secretary must prepare a list of all encumbrances of record on the Federal lands for the State of Utah. The State of Utah must likewise prepare a list of all encumbrances on the State lands for the United States. The Secretary and the State of Utah shall inspect all pertinent records and conduct physical inspections of the lands to be exchanged. The responsibility for cost of remedial action related to any hazardous materials shall be borne by those entities responsible under existing law. The exchange is deemed in the public interest and the National Environmental Policy Act of 1969 is waived. The value of Federal lands shall be adjusted to reflect the right of the State of Utah under existing Federal law to share in the revenues from such Federal lands. In the event the encumbrances identified result in an imbalance in values, the Secretary shall make additional lands available to remedy the imbalance.

The State of Utah and the United States shall provide each other legal descriptions of their respective lands. The maps and legal descriptions shall be made available to the public. The lands identified for acquisition by the United States are withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws.

The lands acquired by the United States shall be administered as public lands according to the maps referred to in H.R. 1745.

Section 12. Land appraisal

Lands acquired pursuant to this Act shall be appraised without regard to the presence of threatened or endangered species under the Endangered Species Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of

H.R. 1745 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs of which would be incurred in carrying out H.R. 1745. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1745 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. H.R. 1745 will increase Federal outlays and also generate new income.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1745.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1745 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 28, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1745, the Utah Public Lands Management Act of 1995, as ordered reported by the House Committee on Resources on August 2, 1995. CBO estimates that enacting H.R. 1745 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill. We estimate that the resulting increase in federal outlays would be less than $500,000 per year.

H.R. 1745 would designate as wilderness approximately 1.8 million acres in Utah that are currently under the control of the Bureau of Land Management (BLM). The bill would release about 1.4 million acres of other land in the agency's Wilderness Study Area and provide that BLM manage it for non-wilderness multiple uses. The bill would authorize the exchange of Utah school trust lands in and adjacent to the designated wilderness area for federal lands elsewhere, subject to certain appraisal requirements.

Federal Budgetary Impact. Based on information from the Department of the Interior and the state of Utah, CBO estimates that the 1.8 million acres of federal lands will generate, on average, less than $1 million of offsetting receipts each year during the 1996–2000 period. (The amount of bonus bids and royalty income for each year is uncertain and depends on both development of existing leases and the extent to which new leases are entered into.) The federal government pays half of such receipts to the state of Utah. These federal receipts, less payments to the state, would be forgone if H.R. 1745 is enacted. Because the budget records the receipts as offsetting receipts (that is, negative outlays), their loss would result in a new increase in federal spending. Thus, we estimate that the transfer of land to Utah would increase federal outlays by amounts averaging less than $500,000 a year.

The loss of federal receipts under H.R. 1745 would be partially offset because the government would obtain new lands that also generate income. CBO estimates that the lands that would be transferred to the federal government currently generate about $65,000 per year from mineral leases held by the state of Utah, and those receipts would likely continue at about the same level if the land exchange is enacted. Once the land is transferred to the federal government, however, half of the gross receipts would still be paid to Utah. Therefore, new federal receipts (net of the state's share) from the land currently owned by the state would total about $33,000 per year.

Finally, by decreasing the number of acres of federal land, the bill would cause payments in lieu of taxes (PILT) made to counties in Utah to decrease. The change in such payments, which are subject to appropriations, would not be significant.

State and Local Government Budgetary Impact. Based on the above estimates of federal receipts, CBO expects that federal payments to the state of Utah would increase by the same amount as the decrease in net federal receipts—less than $500,000 per year.

Because the total number of acres of federal land in Utah would decrease, PILT for federally owned land in the state also would decrease. The losses of such payments, however, would not be significant.

If you wish further details on this estimate, we will be pleased to provide them. The staff contacts are Victoria V. Heid, and, for state and local impacts, Marjorie Miller.

Sincerely,

JUNE E. O'NEILL, *Director.*

COMMITTEE COST ESTIMATE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, December 8, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: In accordance with clause 7 of Rule XIII of the Rules of the House of Representatives, this represents a cost estimate of the Committee on Resources for the bill, H.R. 1745, the

Utah Public Lands Management Act of 1995. This letter supplements the cost estimate of the Congressional Budget Office (CBO) prepared on November 28, 1995, which is also included in the Committee report on the bill.

The purpose of H.R. 1745 is to designate 1.8 million acres of land in the State of Utah as wilderness. I am taking this extraordinary step because of unusual circumstances surrounding a land exchange authorized by section 11 of the bill. Section 11 authorizes an exchange of approximately 209,000 acres owned by the State of Utah for approximately the same acreage acres of Federal land. The Federal Government originally deeded these lands to the State to generate income for its schools through the development of natural resources and other methods. The State areas lie adjacent to or within lands which are designated as wilderness under section 2 of the bill, and such development would be curtailed or prohibited following the designation. Therefore, it is in the interest of the United States and the State of Utah to exchange these lands out of wilderness areas to help accomplish the original purpose of the school trust lands. Under section 11(a), the Federal lands to be exchanged "are of approximate equal value" to the State school trust lands.

The version of H.R. 1745 favorably reported from the Committee on Resources on August 2, 1995, described the lands to be exchanged by reference to map designated "In-Held School Trust Land Exchange—Proposed" dated _____.[1] In June, a map had been prepared by the Bureau of Land management after consultation with the State. However, following the Committee consideration of the bill on August 2, 1995, the Bureau of Land Management determined that the value of the Federal lands to be exchanged had increased through the granting of coal leases in September 1995. To ensure that the value of the lands remained "of approximate equal value", further negotiations were held with the State and new parcels of Federal land suitable for exchange were identified and remapped in November 1995. Because of the Bureau of Land Management indicated that it would be following the revised map when conducting its land exchanges, the cost estimate prepared by CBO for the bill reflected the exchange of these new parcels. This is both appropriate and prudent and according to the Parliamentarian, consistent with the Rule of the House of Representatives.

However, at request of certain Minority Members of the Committee, I took the extraordinary step of asking CBO to review the old map and to compare it to the cost estimate prepared for the Committee in November. Based on information from the Congressional Budget Office, the Bureau of Land Management, and the State of Utah, if the exchange of lands had occurred as depicted on the earlier map, the bill would resulting in higher direct spending in the form of lost offsetting receipts from the coal leases granted in September 1995 totaling $2 million per year.

The Committee plans to offer an amendment on the Floor when the bill is considered clarifying that the exchange required under

[1] In fact, all references to maps in the bill (including the maps designating areas as wilderness) involve blanks, demonstrating their uncompleted nature.

the bill is reflected in the November 1995 map prepared by the Bureau of Land Management.

Sincerely,

DON YOUNG, *Chairman.*

CHANGES IN EXISTING LAW

If enacted, H.R. 1745 would make no changes in existing law.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1745.

DISSENTING VIEWS

We strongly oppose H.R. 1745. This legislation is a seriously flawed initiative that, if enacted, would not only be a disaster for the wild public lands affected by the bill, but also for the National Wilderness Preservation System.

There is significant interest and concern, not only in Utah but across the country on just what will and what will not be done regarding the designation and management of wilderness on public lands within the borders of Utah. H.R. 1745 would determine the fate of 22 million acres of public land in Utah. These lands are owned by all Americans, held in trust for them by the Federal Government, and managed by the Bureau of Land Management. These lands include some of the most spectacular treasures in the United States, places that have the capacity to inspire wonder in even the most jaded. People in every State of the Union care deeply about the fate of these places. Future generations will scrutinize our actions on this question as well. The bill before us fails on two counts. First it would allow the exploitation of lands as unique and magnificent as those in our most honored national parks. Second, it would weaken the Wilderness Act and the concepts of land management that law established by allowing development in those areas it designates as wilderness.

H.R. 1745, as reported, is replete with exceptions, exclusions, and exemptions that undermine the very essence of what a wilderness area is. The areas designated by the bill will not be real wilderness, but compromised wilderness. Just as disturbing, numerous wild lands of striking beauty and pristine character will be left unprotected completely, sacrificed to development and exploitation. H.R. 1745 sets a different standard for wilderness in Utah than anywhere else. Not only would it be different from wilderness in other States. But it would be different from how national forest wilderness is managed in Utah.

We seriously doubt that within or outside of Utah there are many people who, when they think of a wilderness area, envision roads, water projects, pipelines, transmission of facilities, and communication towers dotting the landscape. Unfortunately all that and more would be allowed in the Utah wilderness areas designated by H.R. 1745. These developments would completely undermine the character of these wilderness areas and render them nothing more than developed primitive areas. None of the new developments that H.R. 1745 would allow in these wilderness areas have a valid existing right to such development. The bill would protect these speculative projects at the expense of the very wilderness values for which these areas are designated. This language is not found in any other wilderness designation act. The bill would take very limited and specific authority granted to the President, au-

thority that has never been used, and expand it into an open invitation to develop wilderness.

H.R. 1745 would also designate as wilderness even less land than was recommended in the wilderness studies done in the early 1980's. Those studies themselves were seriously flawed and a subject of great controversy. Prepared under the tenure of Interior Secretary James Watt, the studies arbitrarily excluded or otherwise dismissed millions of acres of qualified wild public lands in Utah. This fact was confirmed by the Interior Department's own Board of Land Appeals, which after reviewing the Department's studies proposed a much higher wilderness study recommendation for public lands in Utah.

Like many other sections of the bill, H.R. 1745's provisions regarding access go far beyond what has been the normal and customary policy for wilderness areas. While private interests may have a right of access to their holdings within a wilderness area, the United States should not be required to operate or maintain such private access. Regrettably, the majority defeated an amendment which would have required private interests, for whose benefit such access has been provided, to shoulder that responsibility. Instead, the bill would force these costs on the American taxpayer.

On the question of water rights, both the Utah State natural resources director and the State water engineer testified that Utah law does not recognize wilderness for purposes of securing an instream flow water right. How does the majority expect the Bureau of Land Management to manage these wilderness areas when it is precluded by State law from applying for a water right for wilderness values? Since the State does not recognize wilderness for purposes of securing a water right, the bill's water language cripples the protection and management of these wilderness areas.

The current "release" language in H.R. 1745 is also precedent setting. This so-called "hard release" requires the BLM to manage the lands not designated by the bill for the full range of nonwilderness multiple uses. The very fact that the bill uses the term "nonwilderness multiple use" shows a basic misunderstanding of what wilderness is. The wilderness designation, as defined in the Wilderness Act of 1964, is itself a multiple use that includes such things as hunting, fishing, hiking, grazing, camping, canoeing, scientific study, and the protection of water quality and wildlife habitat. Further, the bill prohibits the agency from taking any measures to protect these released lands' wilderness character. In other words, the agency is told to develop these wild lands, pay no attention to the science or its professional judgement, just develop them.

For the first 20 years of the Wilderness Act, no provisions for release were included in wilderness bills. In the past decade, Congress has included what is known as "soft release" in such bills. This commonsense language told land managers that lands not designated as wilderness need not be managed to maintain their suitability for wilderness designation. However, as the agency periodically revised its management plans, it would consider wilderness in its land-use plans, just as it looks at all the other possible management options. In committee, an amendment was offered to follow this long-standing bipartisan congressional policy. The majority defeated this amendment, choosing instead to proceed to tie

the land manager's hands and foreclose forever any wilderness protection for millions of acres of wild lands.

H.R. 1745 is not only a disaster for the wild public lands in Utah but also for the American taxpayer. The bill, as reported by the committee, directs a land exchange between the State of Utah and the Federal Government without appraisals, environmental reviews, or the requirement that the exchange be of equal value. In fact, the bill does not even require surveys of the lands to be exchanged. For those who think the Federal Government should be run more like a business, this exchange is a sore disappointment. No business would ever enter into this deal, unless it was on the receiving end. What business would ever enter into a deal where no appraisals were done to determine the value of its holdings or the value of the holdings it was to acquire? The language of H.R. 1745 overturns long-standing policies for land exchanges that protect the public interest.

Regrettably the majority defeated an amendment that was offered to restore some common sense to this land exchange. Repeatedly, committee Republicans were told this exchange was a bad deal for the American taxpayer. They choose to ignore those warnings in committee. However, subsequent to the committee's action, the Congressional Budget Office notified majority and minority staff that the land exchange had paygo problems since numerous tracts of revenue-producing Federal lands were being traded for nonrevenue-producing State lands (see attached letter on this matter). This exchange is also a bad deal for the American taxpayer since there is a wide disparity in the value of the nonrevenue-producing lands being exchanged. At the request of the majority and minority staffs, the BLM made an assessment of the value of the lands proposed for exchange. Its analysis shows the Federal Government loses millions on the deal as Federal lands are exchanged for less valuable State lands.

While there are numerous problems with what is in the bill, we are just as disturbed with what is missing. Despite overwhelming public support for additional wilderness designations at hearings in both Utah and Washington, DC, the supporters of H.R. 1745 have doggedly clung to only those areas designated in the introduced bill, ignoring numerous areas of nationally significant wilderness character. Canyons and mesas that qualify as wilderness and share boundaries with Zion, Bryce Canyon, Capitol Reef, Arches, and Canyonlands National Parks are not included in this bill and would be released to development.

For example, from the south rim of Bryce Canyon National Park the land falls 7,000 feet in a series of multicolored cliffs and plateaus to the bottom of the Grand Canyon. This is the "grand staircase", which spans 6 major life zones from Arctic-Alpine forests to lower Sonoran Desert. Four billion years of geology are represented. H.R. 1745 excludes over 200,000 acres of this wild lands from wilderness consideration.

In the area surrounding Zion National Park, streams contributing to the Virgin River rush past ribbons of splendid greenery at the bottom of dark, narrow, sheer red-walled canyons. Two thousand foot cliffs with groves of ponderosa pine scattered across this sculpted surface of solid rock frames the visitor's entrance to the

park. H.R. 1745 omits approximately 170,000 acres of these wildlands.

130,000 acres around Canyonlands National Park, including wild canyons that drain into the Colorado River, as well as the adjacent towering windgate walls that form the prominent backdrop that is seen from the Needles region, are excluded from H.R. 1745.

Bordering Capitol Reef National Park, the Escalante River has carved a series of salmon hued serpentine canyons. These canyons compose a thousand mile labyrinth that includes hidden alcoves, natural bridges and arches. Slot canyons a hundred feet deep narrow down to 10 inches in width. Approximately 175,000 acres of these bare rock ribs, hidden desert pools, and towering canyon walls were ignored by H.R. 1745.

The Cedar Mesa Region holds one of the highest concentrations of archeological sites in the United States. In the slickrock side canyons leading to the San Juan River are thousands of cliff dwellings left by a culture that vanished 600 years ago. A pygmy forest of pinyon and juniper grows over ancient pathways, kivas, and mesa top ruins. Approximately 350,000 acres of this area is left out of H.R. 1745.

The Kaipairowits Plateau is one of the most rugged wild areas in the Southwestern United States. The windy mesas and vast canyons clearly fit the Wilderness Act's intent of preserving places of solitude and rugged beauty. Long narrow necks of land stand as islands in the sky over dusty dry washes. H.R. 1745 shuts out over 80 percent, or approximately 530,000 acres of this region.

The Great Basin in western Utah encompasses isolated mountains and the biologically diverse Mojave Desert ecotone. In this basin and range country lofty peaks rise from the desert floor. 494,000 acres or two-thirds of the region is excluded from H.R. 1745.

The Henry Mountains rise over 11,000 feet, but still were the last mountain range discovered by western explorers. On the flank of these lacolithic domes, the Dirty Devil River cuts a deep canyon that served as the hideout for Butch Cassidy and the Wild Bunch. The primitive beauty of the area has inspired proposals for national monument, national park, and wild and scenic river designations. H.R. 1745 ignores over 380,000 acres in the region.

White Canyon begins in Natural Bridges National Monument and then travels through wild grotos, hanging gardens, and grand scenery. Six major branches to the main canyon hold Anazasi ruins. Desert bighorn sheep roam the mesas above. Over 150,000 acres of canyon country were left out of H.R. 1745.

Standing 6,000 feet above the town of Moab, the La Sal Mountains form the backdrop for Arches National Park. Rising to almost 13,000 feet, the peaks collect moisture stored in snowfields to provide water for perennial streams below, creating lush canyons of striking beauty. 120,000 acres of this area is excluded by H.R. 1745.

The Green River slices through the 2,000 foot escarpment of the Book and Roan Cliffs in Desolation Canyon. The river is a human corridor but the aspen and fir capped ridges provide important wildlife habitat and rugged beauty. H.R. 1745 excludes approximately 385,000 acres of this area.

After leaving Desolation Canyon the Green River gains a new complexion as it meanders slowly through Labyrinth Canyon, another area of wild beauty. H.R. 1745 omits over 100,000 acres of it.

The San Rafael Swell is a great dome of uplifted sedimentary rock, 50 miles long and 30 miles wide. Shielded by a reef of steeply tilted stone hundreds of feet high, the area has been proposed as a national park several times since the 1930's. 570,000 acres of jagged cliff faces, narrow slot canyons and hidden valleys rich with domes and towers were rejected by H.R. 1745.

It is important that members and the public know about these wild lands and what is at stake here. It is all about public land in its wild state and the direction that will be taken in its management. While H.R. 1745 sacrifices these spectacular wild lands to development, all these lands and many more of similar character and beauty are included in a legislative proposal (H.R. 1500) introduced by Representative Hinchey. This bill, which has 97 cosponsors is the true wilderness bill for Utah, a fact that was borne out in the hearings, where a majority of those who participated support H.R. 1500.

The supporters of H.R. 1745 have chosen to brush aside the public, the land managers, and most importantly the resource values of these wild public lands. Those resource values make the red rock wild lands of Utah one of the most important landscapes in the United States.

What the majority has lost sight of is that Congress cannot "create" wilderness. That is done by the hand of God. What Congress can do is provide for the management of these wild lands. It is on this central tenet that H.R. 1745 fails so miserably. We believe passage of this legislation will sacrifice much of the remaining wild public land in Utah and set in place numerous bad precedents for wilderness management that will degrade rather than enhance wilderness. For these many reasons we strenuously oppose this bill.

GEORGE MILLER.
MAURICE HINCHEY.
SAM GEJDENSON.
DALE E. KILDEE.
SAM FARR.
PETER A. DEFAZIO.
BILL RICHARDSON.
NEIL ABERCROMBIE.
PAT WILLIAMS.
FRANK PALLONE, Jr.
BRUCE F. VENTO.
GERRY STUDDS.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, December 6, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
Washington, DC.

DEAR MR. CHAIRMAN: We are deeply disturbed by recent events with regard to the map of the land exchange contained in H.R. 1745, the Utah Public Lands Management Act of 1995, and the subsequent scoring of the bill by the Congressional Budget Office.

At the Full Committee's August 2, 1995, a consideration of H.R. 1745, both the Majority and the Minority were operating on the basis of a June 6, 1995, map of the land exchange prepared by the State of Utah.

During Full Committee, Congressman Miller offered an amendment regarding the land exchange because of his concerns about the proposed exchange. The concerns included the lack of any appraisals or surveys of the parcels on the map, the waiver of environmental laws with regard to the exchange and the waiver of provisions in law that the exchange be of equal value and in the public interest. His amendment would have placed conditions on the exchange but would not have changed the map. That amendment was defeated. No other amendment or modification of the land exchange proposal was considered or discussed at Full Committee.

Subsequent to the Full Committee mark-up, both Majority and Minority staff were notified of significant budget problems in the land exchange by the Congressional Budget Office. Congressman Miller specifically raised concerns about the costs at Full Committee, but the Majority chose to go forward with the exchange as proposed.

In response to the budget problems, Majority staff flew to Utah to meet with State and BLM officials. On September 7, 1995, the State of Utah agreed to drop its demand for the BLM's Alkali Creek tract. Majority staff then had BLM prepare cost estimates of the exchange based on this new post mark-up agreement. When Minority staff learned of this development, they informed Majority staff that the cost estimates had to reflect the bill as it was considered by the Full Committee on August 2nd. BLM subsequently prepared and submitted to the CBO cost estimates of the land exchange as it was configured at the time of the August 2nd mark-up.

Following this, Majority staff requested BLM to prepare new cost estimates of the land exchange reflecting the deletion of all Federal revenue-producing tracts from the June 6th map. This the BLM did on October 19, 1995. Again Minority staff warned Majority staff that these changes could be reflected in an amendment prepared for the Floor, but they did not reflect the Committee's action on Au-

gust 2. Majority staff indicated to the Minority an understanding of this.

You can imagine our shock and concern when the CBO on November 28, 1995, issued a cost estimate on H.R. 1745, as ordered reported by the Committee in August 2, 1995, that reflected a November 9, 1995, map of the land exchange and the BLM's October 19th cost estimate.

This November 9th map makes substantial changes to the land exchange Committee Members considered on August 2nd. To his credit, when notified by Minority staff, your Committee Counsel recognized the significant problems with this ex post facto action and stated to our staff that a new CBO estimate would be prepared accurately reflecting the Committee's action on August 2nd.

Mr. Chairman, this episode represents a serious breach of Committee procedure, and it is not the first time such alterations have occurred after formal Committee action has concluded.

This Committee has used working maps on many occasions. When such maps are finalized, they must accurately reflect what the Committee considered. That was not the case here. The November 9th map does not reflect what the Committee considered on August 2nd. Rather, it reflects changes by the staff made months after the Committee's action and changes that were never discussed by Members or considered in Committee. The legislative process was seriously compromised by this action.

The incident comes on the heels of an equally disturbing episode that occurred in September. When H.R. 1091 was considered in the House under Suspension of the Rules on September 18, 1995, the bill that was sent to the Desk was unilaterally modified to delete the Pombo amendment dealing with Colonial National Historical Park. No notification was provided to the Minority of this change. In fact, we only learned of it when Minority staff noticed the discrepancy the next day while reviewing the Congressional Record of the proceedings.

The Pombo amendment was no small matter and was very controversial in Committee. It is ironic that many Members of the Minority voted against the amendment in Committee, only to see their position vindicated as the Majority unilaterally removed the amendment from the bill. Regardless of the fact that most Members of the Minority did not agree with the amendment in the first place, the Majority's action on the Pombo amendment was a patent violation of legislative standards.

Whatever our policy or philosophical differences, we all share the highest concern for the integrity of the legislative process. As you are aware, Section 407 of Jefferson's Manual clearly states that a committee can act only when together in formal meeting. Staff is authorized only to make "technical and conforming changes" in consultation with the Minority, not to alter legislation or maps on which the Committee has acted.

Unsanctioned changes in maps or bill language compromise the integrity of the legislation process and are an invitation to mischief and chaos. I am sure you will agree that it is our responsibility as Chairman and Ranking Members to assure that the language of bills, and supporting documents, that are brought to the House from our Committee represent the agreed upon work product of the

elected Members of Congress, not the modifications of staff outside the normal legislative procedure.

I hope we can have your assurance that such breaches in legislative procedure will not reoccur.

GEORGE MILLER,
Senior Democratic Member.
BILL RICHARDSON,
Senior Democratic Member, Subcommittee on National Parks, Forests & Lands.

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